IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 09.11.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.TAMILVANAN

Writ Appeal No.2768 of 2004
and
WAMP No.5126 of 2004

1. Smt. Mohanasundaram W/o Jegannathan
2. K.K.Rajan
3. Ayyammal
4. Arumugam Mudaliar
5. K.R.Parthiban
6. C.Muthusamy
7. Devagi
8. P.Masilamani
9. S.Ramamurthy
10. Sundarrajan
11. Nithyanandham ... Appellants/Petitioners

vs.

1. The State of Tamil Nadu
Rep. by its Secretary to Govt.
Department of Housing & Urban Development,
Fort St. George, Chennai-9.

2. The Special Tahsildar,
Land Acquisition
Housing Scheme-II,
Coimbatore-18.

3. The Tamilnadu Housing Board,
Nandanam, Chennai-18. ... Respondents/Respondents

Appeal against the Order of the learned single Judge, dated 02.04.2004, made in W.P.No.448 of 1996.

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W.P.No.448 of 1996:- Petition presented to this Court under Artical 226 of the Constitution of India to issue a writ of certiorari, calling for the records relating to the notification under Section 4(1) of the Land Acquisition Act and made in G.O.Ms.No.647 Housing and Urban Development (LA-II) dated 22.9.1992 and the declaration made under section 6 of the Land Acquisition Act in G.O.Ms.967 Housing and Urban Development (LA-3-2) dated 8.12.1993 and quash the same.

For Appellants : Mr. S.S.Sundar
For R-1 & R-2 : Mr. P.Subramanian
Govt. Advocate.
For R-3 : Mr. S.Kasikumar

(Judgment of the Court was delivered by P.SATHASIVAM, J.)

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The above Writ Appeal is directed against the order of the learned single Judge, dated 02.04.2004, made in W.P. No.448 of 1996, in and by which, the learned Judge dismissed the Writ Petition questioning the acquisition proceedings.

2. Heard learned counsel for the appellants as well as learned Government Advocate for R-1 and R-2 and learned counsel for the Tamil Nadu Housing Board.

3. Before the learned Judge, the appellants herein/writ petitioners raised the following contentions,

(a) the respondents did not follow the procedure as provided under Rule 4(b) of the Land Acquisition (Tamil Nadu) Rules; and

(b) there was no further enquiry by the Land Acquisition officer after receipt of remarks from the requisitioning body/Tamil Nadu Housing Board.

4. The learned Judge, after considering both the contentions with reference to the records as well as the information furnished in the counter affidavit, declined to accept the same. The very same contentions are now projected before us. Insofar as the first contention, viz., violation of Rule-4(b) of the Rules, is concerned, admittedly, the petitioners did not submit their objections within 30 days from the last mode of publication of the notification under section 4(1) of the Act, in such circumstances, as held by the Full Bench in WP Nos.17575/95 & 4526/96 (dt.29.09.2006), the respondents cannot be faulted with for non-compliance of Rule 4(b).

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5. Coming to the second contention, though it is pointed out that the objections were forwarded to the requisitioning body/TNHB and that the Board had also submitted its views; in view of the fact that the objections were not filed within the prescribed time, as held in respect of point No.1, this contention is also liable to be rejected.

6. We are in entire agreement with the conclusion arrived at by the learned single Judge. There is no valid ground for interference. Writ Appeal fails and the same is dismissed. No costs. Connected Miscellaneous Petition is closed.

7. Learned counsel appearing for the appellants/petitioners, by drawing our attention to the fact that the entire scheme viz., Kalapatti Neighbourhood scheme, has not been implemented till this date, seeks permission to make representation to the Government for withdrawal from the acquisition proceedings. Learned counsel has also asserted that the possession of the lands in question is with the appellants and that the stay granted earlier has been in force all along. Considering the grievance expressed and the assertion made in respect of the failure of the Scheme, petitioners/appellants are permitted to make representation to the Government, highlighting their stand within a period of four weeks from the date of receipt of copy of this order. If any such representation is made, the first respondent is directed to consider and dispose of the same in accordance with law within a period of twelve weeks thereafter.

JI.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Secretary to Govt., Department of Housing & Urban Development, Fort St. George, Chennai-9.

2. The Special Tahsildar, Land Acquisition
Housing Scheme-II, Coimbatore-18.

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3. The Tamilnadu Housing Board, Nandanam, Chennai.

+ 1 cc to the Government Pleader SR No. 53874

+ 1 cc to Mr. T. R. Rajaraman, Advocate SR No. 53889

+ 1 cc to Mr. K. Chelladurai, Advocate SR No.53996

BV(CO)
SR/24.11.2006

Writ Appeal No.2768
of 2004 & connected
Miscellaneous Petn.

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